

**Testimony
available for
public review in**

**Judiciary Committee
Room 2500**



March 21, 2019

Judiciary Committee
Legislative Office Building
via email: JUDtestimony@cga.ct.gov

**Re: Testimony in Opposition to Senate Bill 1085 An Act
Concerning the Retail Sale and Possession of Cannabis And
Concerning Erasure Of Criminal Records In The Case Of Convictions
Based On The Possession Of A Small Amount Of Cannabis.**

Honorable Committee Members:

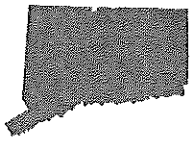
I have been authorized to offer this testimony on behalf of the Connecticut chapter of the National Organization for Reform of Marijuana Laws (CT NORML) in opposition to Senate Bill 1085 regarding the regulation/legalization of cannabis. NORML is an organization that has been promoting the regulation of adult use of cannabis since 1972 and has chapters throughout the country. The Connecticut chapter is the voice of the 30,000 + patients in the State's medical cannabis program and the 71% of citizens who approve of legalization.¹

Our organization and its members support the legalization and regulation of cannabis for adult use. For the reasons articulated below, we are opposed to the current bill as proposed.

The principle behind legalization is a recognition that we have had a cruel, irrational and expensive policy on cannabis for more than 80 years. Prohibition has destroyed countless lives, disparately affected the black community, and has cost our taxpayers millions of dollars. We believe fundamental changes must be made to the text of the bill to ameliorate past harm, provide an economic benefit to the State, and prevent future harm from occurring. Our criticism is as follows:

First, the definition of cannabis under C.G.S. 21a-240 (7) and (29) includes cbd and other non-psychoactive cannabinoids. These inert/non-psychoactive cannabinoids have no impairment effect on a users motor coordination or thought processes, and therefore should be excluded from the definition of cannabis as referenced in all the

¹<http://www.courant.com/politics/hc-pol-sacred-heart-poll-connecticut-budget-20171023-story.html>



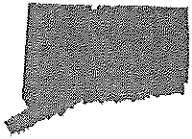
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raised bills regarding cannabis. There needs to be a legislative fix of C.G.S. 21a-240 (7) and (29). Proposed language should be, "Excluded are cannabinon...." and striking "and which show a like potential for abuse, which are controlled substances under this chapter unless modified." There is no evidence that the inert non-psychoactive cannabinoids have any like potential for abuse. If the legislative fix is not corrected, then cbd products will not be able to be sold, possessed, or distributed, unless they fall within the legislative scheme as proposed.

Section 2 provides unreasonable restrictions as to storage, purchase, and quantity allowed to be possessed. The raised bills in this legislative session inherently acknowledge the intoxicating effect of cannabis. Alcohol, a legal intoxicant, was once subject to prohibition, similar to cannabis now. The concerns about the dangerousness of alcohol are identical to the concerns with cannabis with one exception, there has been no documented overdose from cannabis use. Therefore, cannabis is a safer intoxicant than alcohol. Yet, Section 2 provides greater restrictions for cannabis than alcohol.

There is currently no restriction regarding storage of alcohol. Similarly, there should be no restrictions regarding storage of cannabis. We have a law that protects children from adults who may store intoxicants in a manner that is dangerous to children. C.G.S. 53-21(a)(1) (Risk of Injury to a Child) provides that a person who causes or permits the health of a child to be injured or their morals impaired is subject to a class c felony carrying a penalty of up to ten years of incarceration. There is no logical reason that the same laws that apply to alcohol can not apply to the possession of cannabis.

The second restriction within Section 2 requires a consumer to purchase cannabis from a licensed distributor. It is clear that the premise upon which this requirement is based is to create an economy surrounding the cannabis industry for tax revenue. Otherwise the proposal would have permitted the individual to grow. To address this concern, we need only examine our current treatment of alcohol which reveals the fallacy in this argument. Currently there are no restrictions on the amount of alcohol one can produce at home, yet, enormous tax revenue is generated from the sale of alcohol at package stores, grocery stores, and bars. This is because consumers rely on professional brewers and producers to provide alcohol to standard. Other examples can apply, while a consumer can grow their fruits and vegetables without restrictions, the majority of consumers opt to purchase their fruits and vegetables at market. There is no restriction on cooking and every home has a kitchen, yet many people opt to go to restaurants to eat. While cannabis can be grown by individuals, quality cannabis cannot. Every state that has legalized cannabis has always permitted the individual to grow. Yet they derive tax revenue from purchases for the same



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reasons people buy alcohol, fruits, vegetables in stores, and go to restaurants to eat. Consumers purchase these items for convenience and quality. The same applies to the cannabis industry.

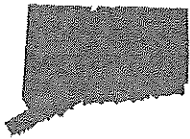
Section 2 provides a restriction on possession of cannabis. This restriction is problematic for several reasons. The first, is african americans are currently arrested at a rate of close to 4 times as high as white people for cannabis offenses, yet white people use at a slightly higher rate. I have attached a report by John Gettman, Ph.D., a statistician who examined arrest data in Connecticut. Even after decriminalization in 2015, these figures did not change. There is no reason to believe, that where cannabis remains illegal (the current proposal restricting possession to under 1.5 ounces) that this will not change.

There is no logical reason to treat cannabis differently from alcohol. If a consumer wants to purchase a tanker truck of beer they are permitted to do so. Why should cannabis, a less dangerous intoxicant be treated differently. When prohibition ended, laws did not restrict possession of alcohol to only 1.5 bottles of beer at a time. Furthermore, **if the goal is to create tax revenue from sales, this can not be accomplished is the amount a consumer can possess is limited.**

The restrictions in Section 2 demonstrate that this legislation has legalized state sanctioned production and sales but simply de facto decriminalized possession of under 1.5 ounces for citizens of the State. This is demonstrated by the act referring to the citizens of the state as consumers.

The irrationality of the weight limit is further revealed in Section 6's limitation on gifting. Section 6 limits the amount that a person can gift to another to be under the limit the receiver can lawfully possess. So A must be aware of how much cannabis B currently possesses or risk violating the law regarding distribution of cannabis prior to gifting to B. There is no way that A can know with certainty how much cannabis B possesses.

Section 9 reveals that the state has not legalized cannabis but simply decriminalized less than 1.5 ounces. The same penalties remain for possession, distribution, and the mandatory minimum for possession of 2.2 pounds remains. The way the current statute is worded 17 year olds can receive a 5 year mandatory minimum sentence for possession of a Kg. I refer you to my point regarding racial disparity in arrest rates and my arguments regarding treating cannabis the same as alcohol.



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Section 11 governs 1-3 offenders of possession of a controlled substance. While mandating an evaluation to provide treatment as an alternative to prosecution for a second offense is admirable, prosecutors bypass this statutory directive by not filing a "part b information." The part b information is what alleges that a person is a prior offender; if the prosecutor does not file this part b information, then the person is charged once again as a first time offender and not offered treatment. This should be amended so that first time offenders, as well as second time offenders, are offered drug treatment as an alternative to prosecution.

Subsection (3) authorizes the court to find a defendant to be a persistent offender. This permits the imposition of sentencing enhancements and increased penalties for subsequent offenses. This should be removed; there is no point in punishing addicts. If prolonged incarceration provided an effective deterrent, there would not be the continued link between addiction and criminal behavior which presently exists. Addiction is a disease and must be treated accordingly.

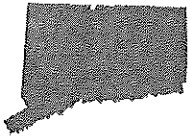
Section 12 is in conflict with the proposed legalization. If possession of 1.5 ounces is legal, *infra*, then how can there be unlawful possession of under .5 ounces?

Section 13(d)(2) is self-defeating. If the scan cannot be stored, then how can the affirmative defense in Section 3(d)(1) be raised— "that there was reliance on a scan"?

Section 14 and 15 demonstrate that cannabis can, and should be treated like alcohol. There is no need for the disparate legislative approach to regulation.

Section 17(b) permits the submission of an affidavit in support of a petition for erasure, and mandates granting the petition even if the affidavit is the only evidence of quantity. While this a positive step towards the erasure of convictions, the section contains no language regarding pending prosecutions for possession. This section does not go far enough to erase **all cannabis related offenses**, such as possession with intent, cultivation, operation of drug factory, and risk of injury. Furthermore, the issue of pending prosecutions was a problem post-decriminalization, and will be a problem post-legalization unless the legislature provides a clear directive. Finally, there is no direction for immediate release of all persons held in the custody of the Department of Corrections for cannabis related offenses.

We urge the Judicial Committee to not approve the bill as presented until the above-referenced issues are resolved. Any bill must address the impact on the criminal justice system, safe personal consumption, fair regulation regarding personal cultivation, proportionate punishment for violations of the regulations, economic growth



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within the cannabis industry and an acknowledgment of the racially discriminatory origins of prohibition and its effect.

I will be more than willing to elaborate on any of these issues and can be reached at 860-286-9026 for any further comment.

Sincerely,

/s/ Aaron J. Romano

Aaron J. Romano, Esq.
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